

Message Text

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TO AMEMBASSY BERN PRIORITY

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E.O. 11652: N/A

TAGS: PFOR, ETRD, SZ

SUBJECT: ANTITRUST: FTC INVESTIGATION OF NESTLE'S
ACQUISITION OF STOUFFER

REF: (A) STATE 13488; (B) STATE 12855

1. THE FTC HELD A PRESS BRIEFING ON THE AFTERNOON OF
JANUARY 21, AND DISTRIBUTED A STATEMENT WHICH FOLLOWED
THE TEXT PROVIDED TO EMBASSY EARLIER IN PARA 3, REFTEL A.
INITIAL PRESS COVERAGE IN MAJOR US NEWSPAPERS HAS BEEN
FACTUAL AND THE SUBJECT HAS NOT YET AROUSED ANY SIGNIFICANT
MEDIA ATTENTION IN THIS COUNTRY.

2. IN ORDER TO ENSURE THAT THE SWISS MEDIA REPRESENTATIVES
IN WASHINGTON WERE ABLE TO GAIN THE FULLEST POSSIBLE
UNDERSTANDING OF THIS COMPLEX MATTER, EUR/CE CONDUCTED AN
INFORMAL BRIEFING ON THE MORNING OF JANUARY 22, AT
WHICH EB/CBA/BP AND FTC REPRESENTATIVES WERE ABLE TO JOIN
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IN PRESENTING TO SWISS NEWSMEN; (A) AN EXPLANATION OF

HOW THE US ANTITRUST SYSTEM OPERATES; (B) A HISTORY OF
OFFICIAL US AND SWISS EFFORTS TO SEE THAT NESTLE HAS THUS
FAR RECEIVED A FAIR OPPORTUNITY TO PRESENT ITS CASE;
(C) POSSIBLE FUTURE STAGES IN THE NESTLE-STOUFFER CASE.

THE PRESENTATION ALSO STRESSED THE FAVORABLE FTC DECISION
ON THE LIBBY ACQUISITION, A POSITIVE ASPECT OF THE
INVESTIGATION.

3. NESTLE ANNOUNCED ON JANUARY 20 THAT IT PLANS TO
FIGHT THE CASE; THIS MEANS THAT THE MATTER WILL BE HEARD
BEFORE AN FTC ADMINISTRATIVE LAW JUDGE, WHOSE INITIAL
DECISION MAY BE APPEALED TO THE FULL COMMISSION-- AND
THEN TO THE FEDERAL COURT SYSTEM, UP TO THE SUPREME COURT.
IF CONTINUED TO THAT LEVEL, THIS CASE COULD TAKE MUCH MORE
TIME TO RESOLVE. DURING THIS PERIOD, NESTLE'S RELATION-
SHIP WITH STOUFFER WOULD REMAIN UNAFFECTED.

4. THE EMBASSY MAY USE THE INFORMATION IN THIS
TELEGRAM AND REFTELS A AND B IN DISCUSSING THIS CASE WITH
GOVERNMENT AND BUSINESS CIRCLES. KISSINGER

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